IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2739 of 2003

==========

1. M/S Indian Oil Corporation Ltd, a Company incorporated under the provisions of the Companies Act, 1956 having its Registered Office at G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai-400 051 and also carrying on business at Barauni Oil Refinery at Begusarai in the State of Bihar through its Senior Finance Manager cum authorized officer Rameshwar Upadhyay son of Shri Mohan Lal Upadhyay residing at Barauni Refinery Township, P.S. Town Thana Begusarai, District-Begusarai.
2. Rameshwar Upadhyay, S/O Shri Mohan Lal Upadhyay, residing at Barauni Refinery Township, P.S. Town Thana Begusarai, District-Begusarai.

... ... Petitioner/s

Versus

1. The State Of Bihar through the Secretary-cum- Commissioner of Commercial Taxes, Bihar, Vikas Bhavan, Bailey Road, Patna.
2. The Joint Commissioner of Commercial Taxex, Administration, Darbhanga Division, Darbhanga.
3. The Assistant Commissioner of Commercial Taxes, Begusarai Circle, Begusarai.

... ... Respondent/s

==========

Appearance :
For the Petitioner/s : Mr. S. D. Sanjay, Senior Advocate.
Mr. Alok Kumar Agrawal, Advocate
For the Respondent/s : Mr. Vikash Kumar, SC-11

==========

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-09-2020

Petitioners have prayed for the following reliefs:

i) For a declaration that under the Scheme of the Bihar Tax on Entry of Goods into Local Area for Consumption, Use, or Sale Therein Act, 1993, no Entry Tax can be imposed & levied on the Crude Oil imported from outside the territory of India;

ii) For a Declaration that the application of the Bihar Tax on Entry of Goods into Local Area for Consumption, Use or Sale Therein Act, 1993 and Entry Tax sought to be imposed on

WEB COPY

goods which have been imported from outside the country and brought to the State of Bihar is beyond the legislative competence of State Legislature;

iii) For a Declaration that the imposition of Entry Tax on the Crude Oil imported from outside the territory of India amounts to indirectly imposing Custom Duty again by the State Government which have got no competence to impose Entry Tax under the Constitutional Scheme;

iv) For quashing the Assessment Orders and the consequential Demand Notices for the periods 1999-2000, 2000-2001 & 2001-02 by which the Respondents have imposed Entry Tax on the Crude Oil imported from outside the territory of India as being wholly illegal without jurisdiction;

v) For a direction to the respondents to refund the amount of Entry Tax already realized from this petitioner on the Crude Oil imported from outside the territory of India, and for any other relief[s] for which the Petitioner may legally be found entitled to in the facts and circumstances of the present case."

Sri S. D. Sanjay, learned Senior Advocate states that the matter stands remanded by Hon'ble the Supreme Court of India.

But the order is not on record. So also other documents.

Considering the factual matrix and the absence of material to support the same, we are of the considered view that it would be only appropriate that a comprehensive petition is filed placing on record not only the documents,

WEB COPY

but also the relevant statutes/decision rendered by different Courts, including the Hon'ble Supreme Court of India and its resultant effect.

Learned counsel for the parties are in agreement that petition can be disposed of reserving liberty to the petitioner to file a fresh petition on the same and subsequent cause of action, if required and desired. Alternatively, petitioner can also take recourse to such remedies as are otherwise available in accordance with law.

Ordered accordingly.

Liberty is granted.

Petition is disposed of in the aforesaid terms.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	22.09.2020
Transmission Date	

WEB COPY